

415R



THE CITY OF NEW YORK
DEPARTMENT OF CORRECTION



DIRECTIVE

[] NEW	[] INTERIM	[X] REVISED	SUBJECT INMATE GRIEVANCE RESOLUTION PROGRAM				
EFFECTIVE DATE 03/13/08		TERMINATION DATE / /					
CLASSIFICATION # 3375R-A	SUPERSEDES 3375R	DATED 03/04/85	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	DISTRIBUTION A & B	PAGE 1 OF 16 PAGES	
RECOMMENDED FOR APPROVAL BY REVIEW BOARD MEMBER <i>Carolyn Thomas</i> CAROLYN THOMAS, CHIEF OF DEPARTMENT			AUTHORIZED BY THE COMMISSIONER <i>Martin F. Horn</i> MARTIN F. HORN				

I. PURPOSE

- A. The Inmate Grievance Resolution Program (IGRP) makes available to each inmate an orderly, fair, simple and expeditious method of resolving grievances. The purpose of the IGRP is to allow an inmate to seek resolution of an issue relating to aspects of his/her confinement that fall within the scope of this Directive.
- B. The New York City Department of Correction (DOC) shall inform all inmates in custody of their access to the IGRP. This program is intended to supplement, not replace, existing formal or informal channels of problem resolution. It is not intended to support an adversarial process, but is designed to promote mediation and conflict reduction in the resolution of grievances.
- C. Under this program, any inmate who is personally affected by an issue may address a complaint to the Inmate Grievance Resolution Committee (IGRC), a facility committee of inmates and appointed staff members. If not satisfied with the IGRC decision, the inmate may appeal to the Commanding Officer of the facility. If not satisfied with the Commanding Officer's decision, the inmate may appeal to the Central Office Review Committee (CORC); and if still unsatisfied, the inmate may appeal to the New York City Board of Correction (BOC). The BOC issues its findings and non-binding recommendations to the Commissioner, who makes the final decision. The Executive Director of the Department's IGRP has overall responsibility for the sound management of the IGRP, including coordination of all efforts directed at ensuring the integrity and effectiveness of the IGRC existing in each of the Department's inmate housing facilities.

II. GENERAL POLICIES

A. INMATE'S RESPONSIBILITY

An inmate, whenever feasible, should seek assistance in resolving a complaint through a service unit, the program area directly affected, or other existing channels, prior to submitting a formal grievance. An inmate is not required to seek such assistance as a pre-condition to the filing of a formal grievance.

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II. GENERAL POLICIES (cont.)

B. INMATE MUST BE PERSONALLY AFFECTED BY GRIEVANCE ISSUE

An inmate must be personally affected by the policy or issue he/she is grieving. All grievances must be filed in an individual capacity. Class actions on behalf of all inmates or a class of inmates are not to be instituted through the grievance procedure. However, individuals personally affected by a matter which affects all inmates, or a class of inmates, may file individual grievances on their own behalf. The grievance must affect the inmate directly, and must have affected the inmate directly during the ten (10) days of confinement immediately prior to the filing of the grievance. See also section IV.B.1.a.

C. NON-GRIEVABLE ISSUES

1. The individual decisions or dispositions of any current or subsequent program or procedure having its own administrative or investigative process within the Department shall be considered non-grievable. The decisions or dispositions that are considered non-grievable within the IGRP, include, but are not limited to: disciplinary proceedings, discrimination based on disability or perceived disability, Centrally Monitored Case (CMC) Status, Red Identification (ID) or Enhanced Restraint Status, Classification designations, such as Close Custody Housing (CCH), Use of Force, Freedom of Information Law (FOIL) requests, and matters under investigation by the Investigation Division (ID) and the NYC Department of Investigation (DOI) / Inspector General (IG). In addition, matters outside the jurisdiction of the DOC are non-grievable. Grievances that request actions that are not obtainable via the IGRP, will result in dismissal at the IGRC level. In such cases, the grievant shall be directed to the appropriate mechanism whereby he/she can seek the resolution requested.
2. Inmate allegations of assault or harassment by either staff or inmates are not grievable under the grievance mechanism. However, reports of such allegations made to the IGRP shall be recorded on the "Inmate Report of an Alleged Assault/Harassment" (Form #7316R, Attachment A) and shall be entered in a confidential IGRC logbook. The form, together with any relevant documentation submitted by the complainant shall be hand delivered by IGRC staff, on the day of receipt, to the office of the Commanding Officer, or designee, where the form shall be time-stamped and an appropriate entry made in a confidential IGRP ASSAULT/HARASSMENT logbook.

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II. GENERAL POLICIES (cont.)

3. Since no level of review in the grievance process is adversarial, any portion of a complaint in which the remedy sought involves the removal of a staff person from an assignment, or the censure, discipline or termination of a staff person, is not grievable. The underlying complaint is grievable unless it constitutes assault, harassment or criminal misconduct. The inmate shall be advised that complaints involving removal of a staff person may be addressed by direct submission to the Commanding Officer (or designee), Inspector General, or Investigation Division.

D. REASONABLE ACCOMMODATIONS

The Grievance Supervisor will ensure that disabled inmates are provided the necessary assistance to facilitate their access to, and utilization of, the IGRP. Reasonable accommodations shall include, but are not limited to, meetings with inmates at accessible sites and the provision of qualified sign language interpreters for those deaf and hard-of-hearing inmates who use only sign language to communicate. If an inmate expresses difficulty in communicating or understanding, reasonable accommodations will be made to ensure the inmate's full access to all steps in the grievance process. Copies of all determinations as to whether to provide an inmate with a reasonable accommodation shall be sent to the Inmate Disability Rights Coordinator (DRC) at DOC Headquarters (see Directive #3802, entitled "Reasonable Accommodation for Inmates with Disabilities," or its successor).

E. INTERPRETERS/ADVISORS

Interpreters/advisors will be provided for those inmates that want to access the grievance procedure, but do not speak or write English sufficiently. Inmates or staff may function as interpreters/advisors. In the event an appropriate interpreter/advisor cannot be located, then the services of the Department's Language Bank will be utilized.

III. DEFINITIONS

- A. **GRIEVANCE** - a written complaint submitted by an inmate in the custody of the Department about the substance or application of any written or unwritten policy, regulation, rule, or procedure of the DOC or any of its units, or the lack of a policy, regulation, rule, or procedure, based on the impact of such policy or lack thereof on the inmate personally.
- B. **DEPARTMENTAL GRIEVANCE** - a matter that concerns the impact of a departmental policy, directive or procedure.

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III. DEFINITIONS (cont.)

- C. INSTITUTIONAL GRIEVANCE - a grievance in which the grievant is only affected as long as the inmate remains housed in the facility/institution in which the grievance is filed.
- D. DAYS – All references to a number of days means calendar days, excluding weekends and holidays.

IV. PROCEDURE

A. INMATE GRIEVANCE RESOLUTION COMMITTEE (IGRC)

A facility's IGRC is a five (5) member body consisting of one voting Inmate Grievance Representative (IGR), one voting Uniformed Staff Representative (USR), one voting Inmate Grievance Supervisor (IGS), one non-voting Inmate Housing Aide, and one non-voting Inmate Grievance Clerk (IGC). The majority of voting members must be present to render a decision. Matters on which IGRC cannot reach a resolution by majority vote shall be forwarded to the Commanding Officer for action and response.

1. Composition of IGRC Staff

a. Inmate Grievance Representative (IGR)

An IGR is a voting member of the IGRC who is responsible for assisting in the clerical processing of grievances, aiding staff representatives in fact-finding investigations, resolving grievances at the informal and formal levels of review, and formulating and issuing grievance recommendations to the Commanding Officer or designee for action and/or response. IGRs shall not hold joint membership on the Inmate Council Committee. The tasks of an IGR do not include access to inmate-restricted areas or documents.

b. SELECTION OF INMATE REPRESENTATIVE

i. ELECTIONS

- Elections for IGR shall be conducted at quarterly intervals. The IGRs and alternates shall be elected by their peers and paid as skilled workers in accordance with Directive #4014R-A, entitled "Inmate Incentive Pay Plan" (or its successor) and in consultation with the facility Inmate Assignment Office. Elected IGRs shall not be transferred during their term as IGR, absent an emergency or change in Classification or other good cause, and shall not serve more than three (3) consecutive terms of ninety (90) days at a single facility.

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IV. PROCEDURE (cont.)

The alternate IGRs, those placing second and third in the most recent election, may be utilized to fill a vacancy between elections.

- The approved nomination and election procedure shall be conspicuously posted at least five (5) days prior to nominations being held. All nominees are subject to security clearance by the Commanding Officer, or designee, within seven (7) days of the submission of their nomination. The names of cleared nominees shall be posted conspicuously in inmate congregate areas for five (5) days prior to the scheduled election. The election shall be conducted within five (5) days after the nominations are made and nominees are cleared.

ii. REMOVAL OR TRANSFER OF IGRs

See Directive #3377, entitled "Due Process for IGRC Inmate Representatives", Section IV., or its successor.

- c. INMATE GRIEVANCE CLERK (IGC) is an inmate who is selected by the Inmate Grievance Supervisor and paid as a skilled worker in accordance with Directive #4014R-A (or its successor) and in consultation with the Inmate Assignment Office. The duties of the IGC shall be at the discretion of the IGS. The IGC is a non-voting member.
- d. UNIFORMED STAFF REPRESENTATIVE (USR)

- i. A USR is a Correction Officer, who is a voting member of the IGRC. He/she is responsible for the following:

- Supervising and escorting all inmates involved in IGRC activity.
- Conducting accurate and timely fact-finding investigations of inmate grievances.
- Assisting in the mediation and resolution of inmate grievances at the informal and formal levels of review.
- Formulating and issuing recommendations to the Commanding Officer or designee for action and response.
- Presenting pertinent and accurate documentation on all inmate grievances handled by IGRC.

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IV. PROCEDURE (cont.)

- Inspecting institutional grievance boxes every business day, as well as retrieving all submitted grievances every business day.
 - Preparing and processing payrolls for all inmates assigned to IGRC.
 - Assisting the IGS in the nomination and election process for IGR, training and orientation for inmates assigned to IGRC, and monitoring the implementation of grievance dispositions.
 - Supervising the IGRC in the absence of the IGS.
- ii. Uniformed Staff Representatives shall not be assigned duties that could potentially conflict with their ability to independently evaluate grievances, nor shall they serve in roles in which they are likely to be the subject of an inmate grievance. In the event that the uniformed representative is involved in any manner with an inmate grievance, the uniformed representative must recuse himself/herself from dealing the IGRC duties in that matter.
- iii. Vacancies for USRs shall be posted in the facility as set forth in Operations Order #14/91, entitled "Awarding Job Assignments Within a Command" or its successor. Past job performance, attendance record, education and aptitude for the position shall be some of the factors used in the selection process for USR. The IGS shall interview all appropriate candidates and in consultation with the Commanding Officer or designee select the USR.
- e. INMATE HOUSING AIDE - is an inmate who is selected by the IGS, with approval of the Commanding Officer, or designee, and is paid as a skilled worker in accordance with Directive #4014R-A (or its successor). Inmate Housing Aides are responsible for explaining the IGRP to inmates in the housing areas and assisting with the identification and verification of problem areas related to specific grievances within assigned housing areas. Inmate Housing Aides are non-voting members.
- f. INMATE GRIEVANCE SUPERVISOR (IGS) - is a civilian employee of the Department, who is a voting member of the IGRC, assigned and selected by the Executive Director of the IGRP. He/she is responsible for the administration of the IGRC in the facility, and for ensuring that the program operates pursuant to this Directive. The IGS directly supervises inmates and uniformed IGRP staff in the processing of grievances, chairs IGRC hearings, conducts and supervises quarterly inmate-representative elections, prepares monthly statistical data on grievances for submission to the Commanding

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IV. PROCEDURE (cont.)

Officer or designee and IGRP Executive Director, and where appropriate, participates in grievance investigations. The IGS shall be permitted unescorted and unrestricted movement in the facility to which he/she is assigned.

2. ASSIGNED DUTIES AND WORK ACTIVITIES OF GRIEVANCE SUPERVISORS AND STAFF REPRESENTATIVES

The Executive Director of the IGRP or designee shall assign duties and work activities to Inmate Grievance Supervisors and Uniformed Staff Representatives. The Executive Director of the IGRP, or designee, shall determine the work schedule for the IGS and USR. Requests to be excused from duty, including requests for vacation leave, are subject to the direct approval of the Executive Director of the IGRP, or designee. The Executive Director of the IGRP, or designee, shall notify the Commanding Officer or designee of such approval. Where the Executive Director of the IGRP, or designee, directs an IGS and/or USR to leave their parent facility for Headquarters, meetings or other destinations, the IGS shall inform the Commanding Officer, or designee, immediately upon notification of such assignment(s). A Correction Officer or Non-Uniformed Investigator shall be assigned to the Executive Director of the IGRP, to serve as Field Operations Investigator and assist in investigative and administrative functions, as assigned by the Executive Director to fulfill the mission of the IGRP.

3. CODE OF ETHICS - All members of the IGRC shall receive a written notice of the IGRP's Code of Ethics (Form # 7113-R, Attachment B) and shall sign an affidavit indicating that they have received such notice and have been advised of its meaning. The Executive Director or his/her designee shall maintain the signed form and a copy shall be provided to the signatory.

- a. The Code of Ethics consists of the following principles:
 - i. Members shall not obstruct an inmate from exercising his/her right to file a grievance.
 - ii. Members shall demonstrate a willing and tactful attitude in the performance of their duties.
 - iii. Members shall not expect or receive preferential treatment because of his or her participation in the IGRC.
 - iv. Members shall not abuse their particular duties, responsibilities or assignments.

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IV. PROCEDURE (cont.)

- v. Members shall be responsible for safekeeping of grievance files and ensuring against their unauthorized use.
- vi. Members shall not intentionally undermine the IGRC's operations or credibility.
- vii. Members of the IGRC shall have a working knowledge of the program and of their responsibilities as members.
- viii. Members shall not violate Department rules and regulations.

b. Processing of Code of Ethics Violations

The IGS shall monitor the behavior of Inmate Clerks and Aides for compliance with the IGRP Code of Ethics. Inmate representatives and alternates who violate the IGRP Code of Ethics may be removed in accordance with due process requirements, as set forth in Directive #3377, or its successor.

- 4. GRIEVANCE DISMISSALS - the Grievance Supervisor may dismiss and close the grievance if he/she determines that: (1) the grievant has not been, or will not be personally affected by the issue in his/her complaint in accordance with Section II.B.; or (2) the complaint is non-grievable in accordance with Section II.C.; (3) the grievant is seeking action with respect to matters outside the jurisdiction of the DOC; or (4) the grievance is institutional in nature and no longer affects a grievant who has been transferred from the facility where the grievance was originally lodged. In such cases, the coordinator shall clearly cite the reason(s) for such dismissal on Form #7115R, Formal Hearing Complaint Dismissal Form (Attachment C) and shall, where appropriate, refer the grievant to the appropriate existing mechanism for redress of the matter grieved.

B. GRIEVANCE PROCEDURE

- 1. FIRST STEP - SUBMITTING THE COMPLAINT TO THE INMATE GRIEVANCE RESOLUTION COMMITTEE (IGRC)
 - a. Within ten (10) days from the date the alleged issue relating to his/her confinement took place, an inmate must submit a complaint on an "Inmate Interview Slip" (Form #143, Attachment D) or an "Inmate Grievance Form" (Form #7101R, Attachment E). If these forms are not available, a complaint may be submitted on plain paper. The grievant must file the grievance as follows: (1) deposit the written complaint into a "Grievance Box", located in the inmate's housing area, or (2) deliver it to the Grievance Office, or (3) give it to the Grievance Coordinator. The grievance must contain the grievant's name, Book and Case number, present housing facility, a concise, specific description

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IV. PROCEDURE (cont.)

of the problem/complaint and the action requested. Upon receipt of the complaint, if deemed grievable, it shall be consecutively numbered and logged. All grievances shall be investigated and documented on an "Investigation Form" (Form #7112, Attachment F). If a matter is determined to be non-grievable, the IGS shall log it in the "Non-Grievable Logbook" and communicate the determination to the inmate, via Form #7114, Non-Grievable Complaint (Attachment G), along with information on what process is available to address the matter of concern. A submission that requests to see the IGRC or which fails to allege specific facts as a basis for a grievance will not be considered a grievance. When the grievance office receives such a submission, the initiating inmate will be summoned to the Grievance Office for an interview. Once DOC staff and the inmate meet, and if DOC staff determines the matter to be grievable, DOC staff will assign a grievance log number to the inmate's allegations, and a copy of the "Inmate Grievance Form" (Form #7101R) will be given to the inmate. A grievance is not considered submitted until a log number has been assigned.

- b. EXTENSION TO SUBMIT A COMPLAINT - Where the inmate demonstrates a valid reason for delay, an extension in submission time may be allowed by the IGS. In general, a valid reason for delay means a situation in which the inmate was prevented by circumstances beyond his or her control from submitting the request within the established time frame.
- c. INFORMAL RESOLUTION - Representatives of the IGRC shall have up to five (5) days to review a grievance or resolve it informally. If the matter is so resolved to the satisfaction of the grievant, the resolution and the grievant's signed consent must be entered on the "Inmate Grievance Form" (Form #7101R). The IGRC members involved shall sign all IGRC decisions and recommendations. The role of the IGRC is to resolve grievances and/or make recommendations for the resolution of the grievances filed.
- d. FORMAL RESOLUTION
 - i. IGRC HEARING - If no informal resolution is reached within the five (5) day period discussed in paragraph IV.B.1.c. above, or if the grievant does not concur with the informal resolution of the grievance, the inmate has five (5) days from notification of disposition to request a hearing. If the inmate has not received any response within the same five (5) day period, the inmate should go to the Grievance Office to sign Form #7101R and indicate on

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IV. PROCEDURE (cont.)

that form that a hearing is requested. Any inmate confined to a cell must request Form #7101R from the Grievance Coordinator and follow this procedure. If the inmate makes such a hearing request, the full committee shall hear the complaint and render a decision within three (3) days of the request for a hearing. When scheduling the hearing, the IGS shall complete a "Hearing Notice" (Form #7102R, Attachment H) and ensure that the form is served upon the grievant.

The IGS is the chairperson of the IGRC and shall make certain that the grievant and available relevant witnesses, if any, are afforded a reasonable opportunity to appear at the hearing and testify, subject to reasonable security considerations. If the grievant does not appear at the scheduled hearing and fails to provide a legitimate and substantiated reason (e.g., court appearance, visit, medical treatment or parole hearing), then the IGRC shall hold the hearing in absentia and has the authority to reach a decision or dismiss the grievance by majority vote. If the grievant misses the hearing due to legitimate and substantiated reasons, then the IGRC may adjourn the hearing, except that, if the grievant misses three (3) scheduled hearings due to legitimate reasons, the IGRC shall act on the grievance at the third scheduled hearing.

The full IGRC shall conduct the hearing at the time and place set. The grievant and available relevant witnesses may present relevant information, comments or other evidence in furtherance of their respective positions. The IGRC shall determine the relevance and materiality of the evidence offered.

- ii. Committee Decision/Recommendation - After the IGS closes the hearing, the IGRC shall deliberate in private session. Within two (2) days, the committee must notify the grievant of the decision and/or recommendations in writing on the "Inmate Grievance Form" (Form #7101R). All voting IGRC members involved shall sign all IGRC decisions and recommendations. In the event that there is no majority decision, the matter is to be referred for further appeal to the Commanding Officer as described below.
- iii. Procedure for Filing an Appeal - Within five (5) days after the receipt of the committee's written response to the grievance, an inmate may appeal the IGRC action to the appropriate Commanding Officer, or designee, by filing an appeal (found on the 2nd page of the "Inmate Grievance Form", Form #7101R), with the Grievance Office. The facility Grievance Office shall date and time-stamp the appeal. The IGS

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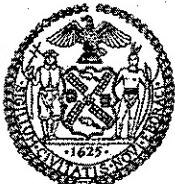
shall forward the appeal to the Commanding Officer, or designee, within one (1) day of receipt.

- iv. Extension to File an Appeal - Where the grievant in DOC's custody demonstrates a valid reason for delay, an extension in filing time for an appeal may be allowed by the IGS. In general, a valid reason for delay means a situation in which the grievant was prevented by circumstances beyond his/her control from submitting the appeal within the established time frame.

2. SECOND STEP - APPEAL PROCESS TO THE COMMANDING OFFICER

- a. Referral to the Commanding Officer - In all cases where action of the Commanding Officer, or designee, is required, the grievance papers and all relevant supplemental documents shall be transmitted by the Grievance Office to the Commanding Officer, or designee, within one (1) day after receipt of the appeal.
- b. Commanding Officer's Action - The Commanding Officer, or designee, will time and date-stamp all grievances forwarded showing when they were received. The Commanding Officer, or designee, shall determine if the grievance is departmental or institutional in nature.
 - i. Departmental Issue - If the matter concerns the revision of a departmental policy/directive or procedure, the Commanding Officer, or designee, shall forward the grievance papers and a recommendation, via the "Transmittal to CORC" (Form #7104R, Attachment I) to the IGS within five (5) days. The IGS must forward the recommendation and related paperwork to the Executive Director, IGRP within one (1) day. The Executive Director must forward the recommendation to the Central Office Review Committee (CORC) within five (5) days of receipt of the recommendation by the IGS, in accordance with "Step Three."
 - ii. Institutional Issue - In all institutional matters, the Commanding Officer, or designee, shall render a decision on the grievance within five (5) days from the time the appeal was received on the "Warden's Decision" form (Form #7103R, Attachment J). The Commanding Officer, or designee, shall forward a copy of the decision and all accompanying documentation to the IGS within one (1) day after the decision was made. The IGS shall then forward the decision and all accompanying documentation to the grievant within five (5) days of receipt of the documentation.

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- c. Filing an Appeal - Within five (5) days after receipt of the Commanding Officer's or designee's written response to the grievance, the inmate may appeal the Commanding Officer's action to the CORC by filing an appeal, (found on the bottom of Form #7103R) with the facility Grievance Office. The facility Grievance Office shall date and time-stamp the appeal. The Executive Director of the IGRP shall forward the appeal papers to CORC within five (5) days after receipt of the decision.
- d. Extension to File an Appeal - Where the grievant in DOC's custody demonstrates a valid reason for delay, an extension in filing time for an appeal may be allowed by the CORC. In general, a valid reason for delay means a situation in which the grievant was prevented by circumstances beyond his/her control from submitting the appeal within the established time frame.

3. THIRD STEP - APPEAL TO THE CENTRAL OFFICE REVIEW COMMITTEE (CORC)

- a. The CORC - the CORC shall consist of the Commanding Officer of the Office of Policy and Compliance (OPC), the Chief of Facility Operations, the Chief of Custody Management & Environmental Health, the General Counsel, Deputy Commissioner for Programs and Discharge Planning, or their designees. The Executive Director acts as a facilitator, but is not a voting member of CORC. CORC provides dispositions on grievances appealed. The CORC functions on behalf of the Commissioner and under his/her authority. The Executive Director of the IGRP is responsible for the administrative function of the IGRP. The Executive Director of the IGRP, as the Commissioner's designee, must ensure implementation of CORC decisions.
- b. CORC Action - The CORC shall review each appeal that it receives, render a decision on the appeal, and transmit its decision to the IGS on the "Disposition of the Central Office Review Committee Form"(Form #7105R, Attachment K). The IGS shall then transmit the CORC decision to the grievant, the Commanding Officer or designee and any other appropriate party within the time periods stated below.
- i. Informal Meeting/Review and Decision by CORC - If in the opinion of the IGRP Executive Director, or designee the appeal may not require a full CORC meeting to resolve the grievance, then the Executive Director of the IGRP or designee may first process the CORC appeal informally, as described:

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The Executive Director of the IGRP and/or appropriate IGRP staff shall forward the appeal documents to each member of the CORC for review and decision. The CORC shall endeavor to reach a unanimous decision. Each member must fill out the appropriate form indicating recommendations and forward the form to the Executive Director. Any unanimous CORC decision shall be transmitted to all appropriate parties on the "Disposition of the Central Office Review Committee" (Form #7105R), within five (5) days of receipt of the CORC decision by the Executive Director. In the event the decision is not unanimous, a formal meeting/review and decision must occur.

- ii. Formal Meeting/Review and Decision by CORC - CORC meetings where the full committee meets and decides an appeal. All decisions and findings require a majority vote of the members of the committee. Formal CORC meetings shall occur in the following circumstances:

- Unresolved Informal CORC Hearing - Where there is no unanimous informal decision, the CORC shall submit a majority decision within ten (10) days of receipt of the appeal on the "Disposition of the Central Office Review Committee" (Form #7105R).
- Departmental Issue - If the matter concerns the revision of a departmental policy, directive or procedure, the CORC shall submit a majority decision within fifteen (15) days of receipt of the appeal on the aforementioned form.

c. Procedure for Filing an Appeal

- i. Filing an Appeal - Within five (5) days after receipt of the CORC decision, the grievant may appeal the CORC decision to the NYC Board of Correction (BOC) by filing an appeal with the Grievance Office (found on the bottom of Form #7105R). Upon receipt of a signed appeal statement, the Grievance Office shall forward the disposition of CORC and the appeal to the BOC within two (2) days.

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IV. PROCEDURE (cont.)

- ii. Extension to File an Appeal - Where the grievant demonstrates a valid reason for delay, an extension in filing time for an appeal may be allowed by the Executive Director of the IGRP. In general, a valid reason for delay means a situation in which the grievant is prevented by circumstances beyond his/her control from submitting the appeal within the established time frame.

4. FOURTH STEP - APPEAL TO THE NYC BOC

- a. NYC BOC Action for Commissioner Decision - NYC BOC shall forward its findings and non-binding recommendations to the Commissioner within twenty (20) days for action and response.
- b. Commissioner's Action and Response - Within twenty (20) days of receipt of the NYC BOC action and response, the Commissioner shall respond to the NYC BOC on a "Commissioner's Decision" form (Form # 7106R, Attachment K). The Commissioner's decision is final. A copy of the "Commissioner's Decision" Form is to be transmitted to the Executive Director of the IGRP to be forwarded to the appropriate IGS for immediate delivery to the grievant. The Executive Director of the IGRP shall also forward the "Commissioner's Decision" form to the appropriate Commanding Officer for notification, action and implementation, if warranted.

C. PROCEDURAL SAFEGUARDS

- 1. Reprisals Prohibited - No reprisals of any kind shall be taken against an inmate for good faith utilization of the grievance procedure. An inmate may file a grievance that a reprisal occurred through the grievance program.
- 2. Objection to IGR and/or IGC - No inmate will take part in the resolution of a grievance over the grievant's objection. If an inmate grievant objects to both the IGR and the IGC, then the USR and the IGS shall hold the hearing and provide a recommendation. Inmates who are members of the IGRC shall not function as a voting representative at a hearing on their own grievance. In the case of an IGR, an alternate IGR may be utilized. Staff who are members of the IGRC shall not function as a voting representative at a hearing on a grievance in which that staff member is a direct party. An alternate staff member must be utilized.
- 3. File Maintenance/Confidentiality - Grievance files will be locked and maintained in a specific area to be used by each IGRC staff. Grievance documents shall not be routinely available to employees or inmates not assigned to the IGRC. No copies of grievance documents may go into the grievant's Inmate Record Folder without the grievant's written consent.

416R

	EFFECTIVE DATE 03/13/08	SUBJECT INMATE GRIEVANCE RESOLUTION PROGRAM		
	CLASSIFICATION # 3375R-A			
	DISTRIBUTION A & B	APPROVED FOR WEB POSTING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE 15 OF 16 PAGES	

IV. PROCEDURE (cont.)

4. Integrity of the IGRC - Uniformed Staff Representatives shall not be assigned duties that could potentially conflict with their ability to independently evaluate grievances, nor shall they serve in roles in which they are likely to be the subject of an inmate grievance. In the event that the uniformed representative is involved in any manner with an inmate grievance, the uniformed representative must recuse himself/herself from dealing the IGRC duties in that matter.
5. Requests for Time Limit Extensions by DOC - Time limit extensions may be requested by the IGRC, the Commanding Officer, or designee, depending on the level of review, but such extensions may only be granted with the written consent of the grievant. Failure by the DOC to request an extension shall not affect the validity of a decision, or serve as grounds for an appeal, if the inmate did not appeal the delay prior to the decision being rendered.
6. Grievance Appeals - Grievances not decided within the time limitations may be appealed to the next step, if no extension has been granted. To effect an appeal, the inmate should go to the Grievance Office to sign and submit the appropriate appeal form. Any inmate confined to a cell must request the appropriate appeal from the Grievance Coordinator and follow the procedure indicated in the previous sentence.
7. Emergencies - the IGS shall refer any grievance of an emergency nature directly to the Commanding Officer, or designee with the authority to ensure an expeditious response. An emergency shall include, but is not limited to, a situation in which an inmate's health, safety, or welfare is at risk.
8. IGRC Access to Information - Grievance Supervisors and Staff Representatives shall have access to all records and documents within the facility necessary for the resolution of grievances, except where prohibited for confidentiality or security reasons. Should the Warden determine that the release of specific information poses a threat to the safety or security of the facility or is confidential, said information may be withheld. However, within one (1) day, the Warden or designee shall document the withholding of information and the reasons thereto, for submission to the Executive Director of the IGRP.

V. REFERENCES

- A. Directive #3377, entitled "Due Process For IGRC Inmate Representatives," dated 01/23/89.
- B. Directive #3802, entitled "Reasonable Accommodation For Inmates With Disabilities," dated 12/15/05.

416R

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V. REFERENCES (cont.)

- C. Directive #4014R-A, entitled "Inmate Incentive Pay Plan," dated 04/11/07 (as amended).
- D. Directive #5000R-A, entitled "Reporting Unusual Incidents," dated 11/19/04 (as amended).
- E. Operations Order #28/89, entitled "Identification Of Hearing Impaired/Deaf Mute Inmates," dated 06/19/89 (as amended).
- F. Operations Order #14/91, entitled "Awards Job Assignments Within A Command," dated 04/02/91.

VI. ATTACHMENTS

- A. Inmate Report of an Alleged Assault/Harassment (Form #7316R)
- B. IGRP Code of Ethics (Form #7113R)
- C. Formal Hearing Complaint Dismissal Form (Form #7115R)
- D. Inmate Interview Slip (Form #143)
- E. Inmate Grievance Form (Form #7101R)
- F. Investigation Form (Form #7112R)
- G. Non-Grievable Complaint (Form #7114R)
- H. Hearing Notice (Form #7102R)
- I. Transmittal to CORC (Form #7104R)
- J. Warden's Decision (Form #7103R)
- K. Disposition of the Central Office Review Committee (Form #7105R)
- L. Commissioner's Decision (Form #7106R)

VII. SUPERSEDES

Directive #3375R, entitled, "Inmate Grievance Resolution Program," dated 03/04/85.

ATTACHMENT A

Department of Correction-Interdepartmental Memorandum

INMATE GRIEVANCE RESOLUTION PROGRAM

Form: #7316R

Date : _____

To : _____

From : _____

Subject : **INMATE REPORT OF AN ALLEGED ASSAULT/HARASSMENT**

This memorandum is to inform you that _____

NYSID # _____ contacted this office on _____ and

Informed members of the Committee that he was assaulted/harassed on _____.

This information is being forwarded to you because allegations of assault/harassment are not within the jurisdiction of the IGRP pursuant to Directive #3375R-A, Section III (C)(2).

You may wish to contact the inmate or additional details of the allegation.

Grievance Supervisor

C: Executive Director
File

INMATE GRIEVANCE RESOLUTION PROGRAM

Form #7113R

ATTACHMENT B

CODE OF ETHICS

The Code of Ethics for Inmate Representatives, Grievance Clerks, Inmate Housing Aides and other Grievance Committee members Chairpersons has been established to strengthen the credibility and effectiveness of the Inmate Grievance Resolution Committee.

- A. Members shall not obstruct an inmate from exercising his/her right to file a grievance.
- B. Members shall demonstrate a willing and tactful attitude in the performance of their duties.
- C. Members shall not expect or receive preferential treatment because of his or her participation in the IGRC.
- D. Members shall not abuse their particular duties, responsibilities or assignments.
- E. Members shall be responsible for safekeeping of grievance files and ensuring against their unauthorized use.
- F. Members shall not intentionally undermine the IGRC's operations or credibility.
- G. Members of the IGRC shall have a working knowledge of the program and of their responsibilities as members.
- H. Members shall not violate Department rules and regulations.

I have read, understood and shall abide by the above Code of Ethics. My signature below indicates acknowledgement of my right to a Due Process hearing should I violate any of the above ethics.

Signature

Date

Witness

Date

ATTACHMENT C

**THE CITY OF NEW YORK
DEPARTMENT OF CORRECTION**

Form #7115R

INMATE GRIEVANCE RESOLUTION PROGRAM

**FORMAL HEARING COMPLAINT
DISMISSAL FORM**

GRIEVANCE #	DATE FILED	HEARING DATE
--------------------	-------------------	---------------------

INMATE	BOOK & CASE #	FACILITY
---------------	--------------------------	-----------------

NYSID #	
----------------	--

The Inmate Grievance Resolution Committee (IGRP) has conducted a formal hearing on your grievance.

The IGRC has determined by majority vote that your complaint is "non-grievable" pursuant to Department Directive #3375R-A, Inmate Grievance Resolution Program (IGRP), Section _____ . This section states that _____

You are advised to contact the following Department Unit(s) and/or agency to redress your complaint: _____

Signed:

Staff Representative	Date	Inmate Representation	Date
-----------------------------	-------------	------------------------------	-------------

Staff Representative	Date	Inmate Representation	Date
-----------------------------	-------------	------------------------------	-------------

(Continued next a page)

-2-

Form #7115R

NOTICE TO GRIEVANT

If you believe that a dismissal in your case is not authorized by Directive #3375R-A, you may appeal directly to the IGRP Executive Director for review by signing below. The IGRP Executive Director or designee shall render a determination within five working days. Should the IGRP Executive Director accept your appeal, the IGRC shall reconvene the formal hearing within five working days of receipt of the IGRP Executive Director's determination.

GRIEVANT'S SIGNATURE

DATE

GRIEVANT'S CLERK'S SIGNATURE

DATE

I accept the IGRC's determination and do not wish to appeal
To the IGRP Executive Director.

GRIEVANT'S SIGNATURE

DATE

GRIEVANT'S CLERK'S SIGNATURE

DATE

C: Files

ATTACHMENT D

143

CITY OF NEW YORK
DEPARTMENT OF CORRECTION

..... 20.....

To

Please grant me an interview regarding

.....
.....
.....
.....
.....
.....
.....

Name

Comm. No.....CB.....Tier.....Cell.....

Work Assignment.....

State briefly what you wish to discuss.

Do not use any other form. Do not use envelope.

Deposit this slip in the mailbox as you do your outgoing mail.

If space is not sufficient use other side.

You will not be called unless your request merits consideration.

Inmates: Do not Write Below This Line

Interview held by

Disposition

.....

.....

Signed

Title

ATTACHMENT E

INMATE GRIEVANCE FORM

Facility _____ Grievance No. _____ Date _____ Housing Unit _____

Name _____ Book and Case # _____ NYSID # _____

Please describe problem as briefly as possible (Please Print or Type).

Action Requested by Inmate:

Advisor/Interpreter requested: Yes No Who _____
Have you filed this grievance with any other investigative body or court? Yes No
If yes, specify: _____

Grievants' Signature _____

Grievance Aide _____

The IGRC proposes to informally resolve your grievance as follows:

Representative Signatures

This informal resolution is accepted:

Grievants' Signature

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee.
I request a hearing of my grievance by the IGRC Yes No

Grievants' Signature

Hearing Recommendations:

Date returned to inmate: _____ IGRC Members: _____

Return within one day of receipt and check appropriate boxes.

- A. I agree with the IGRC recommendation.
- B. I disagree with the IGRC recommendation.
- C. I wish to appeal to the Warden.

Greivant's Signature _____ Date _____

Greivance Aide Signature _____ Date _____

To be completed by Grievance Coordinator (Check only one box).

Grievance appealed to Warden _____ Date _____

Grievance forwarded to the Warden for action upon IGRC recommendation _____ Date _____

Grievance not forwarded to Warden (explain):

Supervisor's Signature _____

INVESTIGATION FORM**ATTACHMENT F**

Form #7112R

NAME _____

B&C # _____

HOUSING
AREA _____

GRIEVANCE # _____ NYSID# _____

DATE _____ TIME _____

ISSUE:

_____ACTION REQUESTED:

_____PERSON CONTACTED:

_____STATEMENT PROVIDED:

_____RELATED DOCUMENTS:

_____CONCLUSION:

_____DATE IMPLEMENTED: _____
COMMITTEE MEMBERS _____

ATTACHMENT G

The City of New York
Department of Correction

FORM: 7114R

INMATE GRIEVANCE RESOLUTION COMMITTEE

Date:

To:

From:

Subject : **NON-GRIEVABLE COMPLAINT**

On _____ the IGRC received your complaint. The purpose of this memo is to inform you that the complaint submitted by you have been determined by this committee to be a non-grievable complaint as outlined in Directive #3375R-A, thus not falling within the jurisdiction of the Inmate Grievance Resolution Committee (IGRC). The reason that your complaint is non-grievable is:

- that the matter does not fall under the purview of the IGRP.
- that the matter pertains an alleged assault/ harassment
- that the matter has been filed with another Agency, court or the Inspector General's office.
- that the matter is in litigation.
- that the action requested is to censor, discipline or remove a staff person from an assignment and that is beyond the purview of the IGRC as per the DISPOSITION OF THE CENTRAL OFFICE REVIEW COMMITTEE (Form #7105R).
- that there is already an existing appeal mechanism within the Department of Correction.
- that it is a matter outside the jurisdiction of the Department of Correction.
- that the complaint does not directly affect the grievant.

Comments _____

Inmate Signature _____

Grievance Supervisor _____

C: Warden
Program Administrator
Files

INMATE GRIEVANCE PROGRAM
HEARING NOTICE

ATTACHMENT H

Form #7102R

Grievance #

Title

Date

THE GRIEVANCE COMMITTEE IS CONDUCTING A HEARING ON THE ABOVE. IT IS REQUESTED THAT YOU ATTEND THE HEARING THAT WILL BE CONDUCTED IN AN ATTEMPT TO RESOLVE THE MATTER REFERENCED ABOVE.

NAME OF PERSON TO APPEAR: _____

DATE OF HEARING: _____

TIME OF HEARING: _____

PLACE OF HEARING: _____

PLEASE INDICATE IF YOU WILL BE PRESENT: _____ YES _____ NO

If no, please check: the appropriate box:

I wish to withdraw grievance

Hearing scheduled on court day

Other (specify) _____

PLEASE NOTE THAT THREE (3) REFUSALS TO ATTEND A SCHEDULED HEARING FOR REASONS OTHER THAN MEDICAL OR COURT PROCEEDINGS WILL RESULT IN AUTOMATIC WITHDRAWAL OF YOUR GRIEVANCE.

Grievant's Signature

Date

Witness

ATTACHMENT I

<p>The City of New York Department of Correction INMATE GRIEVANCE RESOLUTION PROGRAM TRANSMITTAL TO CORC Form #7104R</p>	Grievance #:	Transmittal Date
	Facility	Policy Designation
	Title of Grievance	Category
	Supervisor's Signature	

Grievance:

IGRC:

Warden:

The City of New York Department of Correction INMATE GRIEVANCE RESOLUTION PROGRAM WARDEN'S DECISION Form #7103R	Grievance #:	Date Filed
	Facility	Policy Designation
	Title of Grievance	Category

The Grievant's request is

Accepted Rejected Modified

The IGRC Recommendation is

Accepted Rejected Modified

Warden's Signature

Date

NOTICE TO GRIEVANT

This decision is a departmental/institutional grievance which does not need/needs your signature in order to be appealed to the CORC. A departmental grievance will automatically be forwarded to the CORC. If you wish to appeal an institutional decision of the Warden, please sign below and return this copy to your inmate Grievance Clerk. You have 5 days from receipt of this notice to file your appeal.

Grievant's Signature Date

Grievance Clerk's Signature Date

I accept the Warden's decision and do not wish to appeal to the CORC.

Grievant's Signature Date

Grievance Clerk's Signature Date

The City of New York Department of Correction INMATE GRIEVANCE RESOLUTION PROGRAM DISPOSITION OF THE CENTRAL OFFICE REVIEW COMMITTEE Form #7105R	Facility	Policy Designation
	Title of Grievance	Category
	Reviewed by Executive Director	Date

The Grievant's request is

Accepted Rejected Modified

Deputy Commissioner

Date

APPEAL STATEMENT

If you wish to appeal the above decision of the Central Office Review Committee, please sign below and return this copy to your inmate Grievance Clerk. You have five (5) days from receipt of this notice to file your appeal. Please state why you are appealing this decision:

Grievant's Signature

Date

Grievance Clerk's Signature

Date

ATTACHMENT L

The City of New York Department of Correction INMATE GRIEVANCE RESOLUTION PROGRAM COMMISSIONER'S DECISION Form #7106R	Facility:	Policy Designation
	Title of Grievance	Category

The grievant's request is

Accepted Rejected

The Board of Correction/Arbitrator recommendation is:

Accepted Rejected